

(2012) 11 KL CK 0090
In the High Court Of Kerala
Case No : R.P. No. 1087 of 2012 (C)

The Executive Engineer, IIP Division No. II Chalakkudy,
Thrissur District, Pin 680307, The Assistant Executive
Engineer, Public Works Department, Roads Sub Division,
Aluva, Ernakulam District, Pin 683101 and The Assistant
Engineer, Public Works Department, Roads Section,
Angamaly, Ernakulam District, Pin 683572

APPELLANT

Vs

Joemon Joseph

RESPONDENT

Date of Decision : 28-11-2012

Acts Referred:

Citation : (2012) 11 KL CK 0090

Hon'ble Judges : T.R. Ramachandran Nair, J

Bench : Single Bench

Advocate : K.P. Dandapani, A.G, for the Appellant; Ramesh Chander and Sri.
Babu S. Nair, for the Respondent

Judgement

T.R. Ramachandran Nair, J.—This review petition is filed by the respondents in the writ petition. Heard the learned Advocate General and the learned Senior Counsel Sri. Ramesh Chander appearing for the writ petitioner.

2. The writ petition was disposed of by this Court by judgment dated 01.11.2012 in the light of the submission made by the learned Government Pleader and this Court observed that since bund road will be opened by 02.11.2012, no further grievances are there for the petitioner to adjudicate the issue. In the review petition, in paragraph 3, it is averred that in public interest and in order to avoid traffic congestion in Kalady-Malayattoor PWD Road at the time of reconstruction of culvert at 11th KM and connected strengthening work in the sub-merged portion, sanction was granted as per Ext. P3 order to the Public Works Department to use the bund road as a diversion road during the said period, subject to various conditions and an agreement was also executed as Annexure I. It is pointed out in paragraphs 5 and 6 that the proposal did not materialise in the light of absence of sanction for the estimate namely, a total amount of Rs. 25

lakhs for strengthening the work. It is submitted that this fact could not be brought to the notice of this Court when the writ petition was heard. Accordingly, the writ petition was disposed of in the light of the instructions given by the 3rd review petitioner who was unaware of the non sanctioning of the estimate.

3. Learned Senior Counsel for the petitioner submitted that these pleas have been developed only after the filing of the Contempt Case by the petitioner as C.C. (C) No. 1692/2011. But the fact remains that the Irrigation Department having management of the road has entrusted the matter to the PWD for conducting repairs in an attempt to divert traffic for enabling repair work for Kalady-Malayattoor road to be completed. Now that the said work could not be taken over by PWD and that they have divested themselves from the work, the matter will have to be considered in the light of the said aspect also. Learned Senior Counsel for the writ petitioner submitted that clearly it is an attempt to deny the benefit to the writ petitioner, the facility to transport materials through the road and reference was made to the documents produced in the Contempt Case including the one showing the fitness of the road as per the certificate produced.

Having regard to the subsequent developments sworn to by the review petitioners, various aspects will have to be considered in detail. Therefore, the review petition is allowed and the judgment dated 01.11.2012 in W.P. (C) No. 25221/2012 is recalled. The writ petition will be reposted.